



Insurance Law Update

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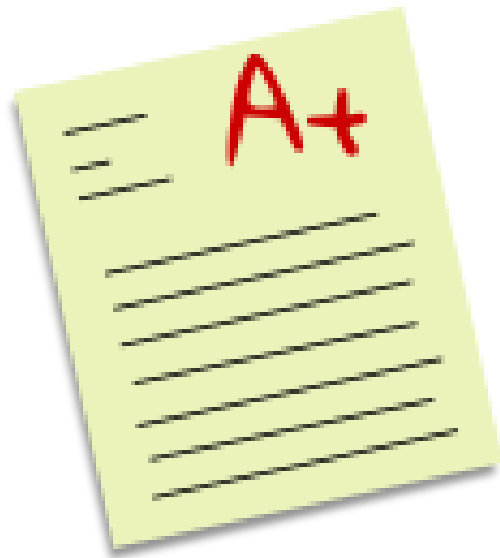
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Notable Decisions And Updates From The Last Year

FROM INSURANCE FUNDAMENTALS AND GRAMMAR TO AI

Every Word Matters



Paloma Res., L.L.C. v. Axis Ins. Co.

2025 U.S. App. LEXIS 16588, 2025 LX 202741, 2025 WL 1864957

No. 22-20228 (5th Cir. July 7, 2025)

Every Word Matters

Paloma Res., L.L.C. v. Axis Ins. Co.

► The Policy:

“The Insurer shall not be liable under Insuring Agreement C. Company Liability for Loss on account of any Claim . . . based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving any **actual or alleged** infringement of copyright, patent, trademark, trade name, trade dress, or service mark or **the** misappropriation of ideas or trade secrets, or the unauthorized disclosure of or access to confidential information; provided that this exclusion shall not apply to Loss on account of a securities Claim, a Securityholder Derivative Demand, or a derivative action.”

Ambiguous or not?

Every Word Matters

Paloma Res., L.L.C. v. Axis Ins. Co.

▶ Controlling law:

Ambiguous exclusions must be construed in the insured's favor.

▶ Outcome: Coverage Denial Vacated

The use of the word “the” before “misappropriation of ideas or trade secrets” created ambiguity over whether “actual or alleged” applied to that clause.

“The Insurer shall not be liable under Insuring Agreement C. Company Liability for Loss on account of any Claim . . . based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving any **actual or alleged** infringement of copyright, patent, trademark, trade name, trade dress, or service mark or **the** misappropriation of ideas or trade secrets, or the unauthorized disclosure of or access to confidential information; provided that this exclusion shall not apply to Loss on account of a securities Claim, a Securityholder Derivative Demand, or a derivative action.”

Excessive Verdict Overturned



Green Acres Baptist Church, Inc. v. Bhd. Mut. Ins. Co.

2025 U.S. App. LEXIS 126690, 2025 WL 1840603

C.A. 6:23-cv-566-JDK (E.D. Tex. July 3, 2025)

Excessive Verdict Overturned

***Green Acres Baptist
Church, Inc. v. Bhd.
Mut. Ins. Co.***

Background:

- ▶ Insurance dispute from a claim for wind and hail damage.
- ▶ Policy requires that policyholders must prove they have incurred repair costs in order to receive replacement value.

Excessive Verdict Overturned

***Green Acres Baptist
Church, Inc. v. Bhd.
Mut. Ins. Co.***

At Trial:

- ▶ Evidence that Green Acres had not actually repaired or replaced certain properties.
- ▶ No evidence for actual cash value for those items. .

Excessive Verdict Overturned

*Green Acres Baptist
Church, Inc. v. Bhd.
Mut. Ins. Co.*

- ▶ **Verdict:**
- ▶ Jury found that Brotherhood Mutual acted in bad faith
- ▶ \$4.8 million in actual / policy damages
- ▶ \$35 million in punitive damages

Excessive Verdict Overturned

*Green Acres Baptist
Church, Inc. v. Bhd.
Mut. Ins. Co.*

Trial Court:

Insured failed to meet burden of proof as to the awarded contract damages and provided no evidence to support a punitive award.

UIM: Judgment Required Before Extra-Contractual Discovery



In re State Farm Mut. Auto. Ins. Co.

712 S.W.3d 53

(Tex. 2025)

UIM: Judgment Required Before Extra- Contractual Discovery

*In re State Farm Mut.
Auto. Ins. Co.*

The logic behind requiring severance and abatement of extra-contractual claims applies even when an insured has only alleged extra-contractual claims in the lawsuit.

UIM: Judgment Required Before Extra- Contractual Discovery

*In re State Farm Mut.
Auto. Ins. Co.*

Requirements:

- ▶ Insured has invoked the severance/bifurcation and abatement rule (where a) the insurer to have made an offer to settle the UIM claim; b) insured has not yet obtained a judgment establishing UIM coverage; and c) the insured's extra-contractual claims are depending on the right to receive UIM benefits).
- ▶ Insurer has stipulated to the matters within its personal knowledge.
- ▶ Insurer produced the nonprivileged documents in its possession that relate to the car crash and damages.
- ▶ Insurer submitted evidence supporting its proportionality complaints and lack of personal knowledge regarding the disputed issues for the initial car-crash trial.

UIM: Judgment Required Before Extra- Contractual Discovery

*In re State Farm Mut.
Auto. Ins. Co.*

An insurer is entitled to a determination as to the insured's entitlement to UIM benefits before extracontractual claims may proceed.

No Duty to Advise on Coverage Adequacy



Century Surety Co. v. EC & SM Guerra, LLC

2025 U.S. Dist. LEXIS 162948, 2025 WL 2602288

5:23-CV-01215-XR-RBF (W.D. Tex. Aug. 21, 2025) aff' 2025 WL 2598375 (Sept. 5, 2025)

No Duty to Advise on Coverage Adequacy

Century Surety Co. v. EC & SM Guerra, LLC

Background:

- ▶ A fire damaged the insured's property in San Antonio and the insurer paid out the limits.
- ▶ The insured alleged that the coverage provided was not sufficient to replace the damaged building (negligent underwriting).

No Duty to Advise on Coverage Adequacy

Century Surety Co. v. EC & SM Guerra, LLC

Evidence:

- ▶ Insured knew the policy limits when coverage was requested from insurer.
- ▶ Insured's representative signed an application that included the limits ultimately provided.

No Duty to Advise on Coverage Adequacy

Century Surety Co. v. EC & SM Guerra, LLC

The burden is on the insured to select the appropriate coverage. Insurer does not owe a duty to advise as to the adequacy of the coverage for insured property.

Reaffirmed

Senechal v. Allstate Vehicle and Prop. Ins. Co.

127 F. 4th 976 (5th Cir. 2025)

- ▶ **Independent Injury Requirement:**
- ▶ Where an insurer pays an appraisal award, the insured must prove an independent injury in order to pursue bad faith claims.

Reaffirmed

Salinas v. Farmers Texas County Mut. Ins. Co.

2025 Tex. App. LEXIS 443, 2025 WL 339037

Cause No. 13-23-00302-CV (Tex. App.—Corpus Christi Jan. 30, 2025)

▶ **Independent Injury Requirement:**

- ▶ Affirmed the independent injury requirements in *USAA Tex. Lloyds Co. v. Menchaca*—insured must establish a right to policy benefits or prove an independent injury. (Insured’s alleged damages in this instance were not “truly independent” of her right to receive policy benefits because they were predicated on the insurer’s obligation to pay insured under the policy.)

Reaffirmed

Re Trisura Ins. Co.

720 S.W.3d 195 (Tex. App.—Corpus Christi July 25, 2025)

- ▶ **Adjuster Dismissal Under 542A**
- ▶ Under § 542A.006 of the Insurance Code, an insurer is entitled to intervene and elect to accept liability for an agent or adjuster even if the insurer is not originally a party to the lawsuit.

Highlights From 2025 Legislative Session

Regulatory Changes

SB 458

Personal Auto and Residential Property insurance policies issued or renewed after January 1, 2026 must have an appraisal provision to resolve disputes about the loss amount.

Highlights From 2025 Legislative Session

Regulatory Changes

SB 815

Pertains to coverage for provided health care services and regulates the use of AI and automated systems in health insurance utilization reviews.

(The statute still exempts utilization reviews of health care services provided under an automobile policy / contract.)